

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

AUXIER FINANCIAL GROUP LLC, et. al
Plaintiff,

vs.

No. 2:10-cv-02070 MJP.

JOINT STATUS REPORT AND
DISCOVERY PLAN
PURSUANT TO FRCP 26(f)

Due March 7, 2011

QUALITY LOAN SERVICE CORP. of WASHINGTON; JP MORGAN CHASE BANK, N.A.; Bank of America N.A. as Successor by Merger to LASALLE BANK NA as TRUSTEE for Washington Mutual Mortgage Pass-through Certificates WaMu Series 2007- OA4 Trust, and as TRUSTEE for Washington Mutual Mortgage Pass-Through Certificates MWALT Series 2007 OC1 Trust.

Defendants.

Plaintiff Auxier Financial Group, LLC (“Auxier Finance”), and Defendants Quality Loan Service Corp. of Washington (“Quality Loan Service”), JPMorgan Chase Bank N.A. (“Chase”), and Bank of America N.A. as successor by merger to LaSalle Bank as Trustee for Washington Mutual Mortgage Pass-through Certificates WaMu Series 2007 OA4 Trust and as

1 Trustee for Washington Mutual Mortgage Pass-Through Certificates MWALT Series 2007
2 OC1 Trust, ("Bank of America"), by and through their respective counsel of record, hereby
3 submit the following Joint Status Report ("JSR") and Proposed Discovery Plan pursuant to
4 Fed. R. Civ. P. 26(f) and the Court's Order Regarding Initial Disclosures, Joint Status Report,
and Early Settlement dated January 24, 2011. [Dkt. 5]

5 **1. Statement of the Nature and Complexity of Case.**

6 **A. Plaintiff's Statement.**

7 Plaintiff's claims are stated in a 22 page complaint alleging claims against all parties
8 Defendant as follows: (1) Claim of Violation of the Washington Deed of Trust Act RCW
9 61.24 *et seq.*, (2) claim of Slander of Title, (3) Claim of Wrongful and Unlawful Foreclosure
10 as an Unfair Business Practice. In violation of RCW 19.86., (4) Claim For Declaratory
11 Judgment re: Lack of Standing to Foreclose, and (5) Claims for Temporary Restraining Order,
12 Preliminary and Permanent Injunction. All claims arise out of the same basic fact pattern
13 alleged in the complaint. Plaintiff does not consider the lawsuit or any of claims to be
14 unusually complex.

15 **B. Defendants Chase and Bank of America Statement.**

16 Defendants Chase and Bank of America state that this is a non-complex case arising
17 from a consumer mortgage loan that Washington Mutual Bank, NA ("WaMU") extended to
18 Joseph Sellars and Greg Greene. Chase and Bank of America deny that they acted improperly
19 or that Plaintiff has any valid claim.

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1 C. Current Position of Defendant Quality Loan Service.

2 Defendant Quality Loan Service intends to defend against each of the claims of
3 Plaintiff against this defendant, and agree that the case is not unusually complex.

4 **2. Statement of the ADR Method That Should be Used.**

5 The parties agree that mediation is the acceptable method of ADR for this case.

6 **3. Statement of When ADR Should Take Place.**

7 The Parties agree that the ADR mediation should take place on or before July 22, 2011.

8 **4. Proposed Deadline For Joining Additional Parties.**

9 The parties agree that the proposed deadline for joining additional parties should be
May 18, 2011.

10 **5. Proposed Discovery Plan.**

11 A. Date of the FRCP 26(f) Conference and FRCP 26 (a)(1)(A) Initial Disclosures.

12 The FRCP 26(f) conference was held March 1, 2011. The initial disclosures were
13 made by Quality Loan Service Corp. on February 24, 2011. The initial disclosures were made
14 by JPMorgan Chas Bank N.A. and Bank of America N.A. on March 1, 2011. The initial
15 disclosures were made by Auxier Financial Group, LLC on March 7, 2011.

16 B. Subjects on Which Discovery May be Needed, Possible Phases or
Limitations to and Focus on Particular Issues.

17 The parties agree that discovery on all disputed questions of fact may be needed. As
part of that discovery the parties agree that discovery may be needed on all facts and
circumstances surrounding the consumer mortgage loan WaMu extended to Joseph Sellars and
Greg Greene, including assignments of the ownership of that loan, as well as Plaintiff's

1 acquisition of any interest in that loan. Finally, the parties agree that at this time there does not
2 appear to be a need to do the discovery in phases or that any other limitations on discovery
3 should be imposed.

4 C. What Changes Should be Made in Limitation on Discovery.

5 The parties agree that there does not need to be any changes to the normal limitations
6 on discovery.

7 D. A Statement of How Discovery Will be Managed to Minimize Expense.

8 The parties agree to consult with each other regarding discovery issues, if any, and to
9 cooperate in facilitating discovery. The parties agree to act reasonably and in good faith when
10 propounding and responding to discovery requests. The parties do not anticipate at this time
11 that any party will fail to cooperate in discovery.

12 E. Any Orders That should be Entered Under FRCP 26(c) or
13 Under Local Rule CR 16(b) or (c).

14 The parties agree that there do not appear at this time to be any orders that should be
15 entered pursuant to Fed. R. Civ. P. 26(c) or Local Rule CR 16(b) or (c).

16 6. Date for Completion of Discovery.

17 The parties agree that all discovery should be completed by Friday, October 28, 2011.

18 7. Whether the Parties Agree That a Full-Time Magistrate Judge May Conduct
19 All Proceedings Under 28 U.S.C. § 636(c) and Local Rule MJR 13.

20 The parties each agree that a full-time magistrate judge should not be used in this case.

21 8. Whether the Case Should be Bifurcated In Any Way.

22 The parties agree that the case should not be bifurcated in any way.

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1 **9. Whether the Pretrial Statements and Pretrial Order Called for by Local Rules**
2 **CR 16(e), (h), (i), and (l), and 16.1 should be Dispensed With.**

3 The parties agree that the pretrial statements and pretrial order called for in Local Rule
4 16(e), (h), (i), (l), and 16.1 should not be dispensed with.

5 **10. Other Suggestions for Shortening or Simplifying the Case.**

6 The parties agree to act reasonably and in good faith in all aspects of this proceeding.
7 Otherwise, the parties agree that at this time none of them have any suggestions for shortening
8 or simplifying the case.

9 **11. The Date the Case will be Ready for Trial..**

10 The parties agree, based on information and pleadings known at this time, that the case
11 will be ready for trial on Monday, February 27, 2012.

12 **12. Whether the Trial will be Non-Jury or Jury.**

13 The trial will be non-jury.

14 **13. The Number of Trial Days Required.**

15 The parties agree that, on the assumption that a normal trial day will be 5 hours, the
16 trial will require at least 4 days. The plaintiff hereby requests that the trial be scheduled for 5
17 days.

18 **14. Names, Addresses and Telephone Numbers of All Trial Counsel.**

19 A. Plaintiff's trial counsel is:

20 Edward L. Mueller, WSBA # 264
21 Mueller & Associates, Inc. P.S.
22 2050 112th Avenue, N.E., Suite 110
Bellevue, WA 98004
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2 B. Defendants JPMorgan Chase Bank N.A.'s , and Bank of America N.A.'s,
Trial counsel are:

3 Fred B. Burnside, WSBA # 32491
4 Matthew Sullivan WSBA # 40873
5 Davis Wright Tremaine LLP
6 1201 Third Avenue, Suite 2200
7 Seattle, WA 98101-3045
8 Tel. # (206) 622-3150
9 Fax: (206) 757-7700
10 e-mail: fredburnside@dwt.com
11 e-mail: matthewsullivan@dwt.com

12
13 C. Defendant Quality Loan Service Corp of Washington's trial counsel is:

14 Albert Lin, WSBA # 28066
15 of McCarthy & Holthus, LLP
16 19735 10th Ave. NE, Suite N200
17 Poulsbo, WA 98370
18 e-mail: Alin@mccarthyholthus.com

19 **15. Status of Service of All Parties as of March 7, 2011.**

20 As of the date of this Joint Status Report, all Defendants have been served.

21 **16. Whether Any party Wishes a Scheduling Conference Prior to Entry
22 of a Scheduling Order in This Case.**

23 No party requests a scheduling conference prior to entry of a Scheduling Order in this
24 case. The parties agree that such a scheduling conference is not necessary.

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1 Dated March 7, 2011.

2 /s/ Edward L. Mueller
3 Edward L. Mueller, WSBA # 264
of Mueller & Associates, Inc. P.S.
4 Attorney for Plaintiff, Auxier Financial Group LLC

5 /s/ Matthew Sullivan
6 Matthew Sullivan, WSBA # 40873
of Davis Wright Tremaine LLP
7 Attorneys for Defendants JPMorgan Chase Bank, N.A. and
Bank of America, N.A.

8 /s/ Albert Lin
9 Albert Lin, WSBA # 28066
of McCarthy & Holthus, LLP
10 Attorneys for Defendant Quality Loan Service Corp.
of Washington

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